THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 6289 OF 2002

Dated: 15th November, 2005

Between:

G.Appayamma

…Petitioner

A N D

1. The District Collector, Visakhapatnam and others

…Respondents

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 6289 OF 2002

O R D E R :

1. This writ petition has been filed by G. Appayamma with a prayer to issue writ, order or direction particularly a writ in the nature of Mandamus directing the respondents not to construct the A.N.M. Sub-Center in Survey No.12/310 in patta No.141 at Singanabanda village.

2. It is the grievance of the petitioner that the respondents are proceeding with the construction of A.N.M.Sub-Center in the land owned by her i.e. Survey No. 12/310.

3. The respondent No.3 filed counter affidavit stating that the construction work is not taken up in Survey No.12/310. I deem it appropriate to refer paras-4 and 5 of the counter affidavit of the 3rd respondent and it is thus;

> "*I submit that the 2nd respondent by order dated 11-12-2001 cancelled the work. After surveying the land in which construction work is taken up, the Mandal Revenue Officer, Bheemunipatnam by proceedings dated 24-4-2002 has submitted report stating that the construction work is taken up within the boundaries mentioned in the gift deeds. I submit that the 2nd respondent by order dated 20-3-2002 has cancelled the earlier order dated 11-12-2001 and permitted this respondent to proceed with the construction of ANM Sub-center in the land.*
>
> *The allegation that this respondent is constructing the ANM Sub-Centre in Sy.No.12/31 of Singanabanda village is not true and correct. The construction work is taken up only in Sy.No.12/32. The further allegation that the ANM Sub-center is taken up in burial ground is equally false. The allegation that this respondent acted independently and contrary to the orders of the 2nd respondent is not true and correct. As the construction work is taken up in the land gifted by K.Sanyasappadu, question of effecting religious rights of the petitioner does not arise. I submit that the writ petitioner only with a view to stop construction of ANM Sub-center filed the present writ petition. Therefore, it is prayed that the Hon'ble Court may be pleased to vacate the interim order granted in W.P.MP.No. 7879 of 2002 in W.P.No. 6289 of 2002 dated 19-4-2002 and dismiss the writ petition with costs".*

4. Heard learned counsel for the petitioner and learned Standing Counsel appearing for the 3rd respondent.

5. It is specifically stated by the 3rd respondent in the counter affidavit that the construction in Survey No. 12/31 has not been taken so far. It goes without saying that they are not proceeding with the construction in the land claimed by the petitioner.

6. In that view of the matter, I find that the petitioner has no cause of action to

approach this Court by invoking jurisdiction under Article 226 of the Constitution of India.

7. Accordingly, this writ petition is dismissed. No order as to costs.

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Justice B.Seshasayana Reddy

15th November, 2005.

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THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

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